

Additional Views

by Arlen Specter

The Senate Governmental Affairs Committee had the potential to make a significant, if not decisive, impact on campaign finance reform when we voted 99 to 0 on March 11, 1997, to include improper as well as illegal activities in our investigation of the 1996 federal elections.

That potential was immediately undermined by the December 31, 1997, deadline. On March 11, I initiated a colloquy with the Committee Chairman and Ranking Member pointing to the obvious incentive of opponents of our investigation to engage in delaying tactics beyond the cutoff date. That December 31st cutoff date was a constant cloud over Committee initiatives deterring the Committee from activities which might not or could not have been concluded before that date. In the end, the cutoff date and severe partisan differences led the Committee to conclude its hearings on October 31st, even two months before the mandated termination date.

The partisan disagreements were the main reason the Committee could not and did not do more to expose the facts which could have created the public demand necessary to compel the Congress to enact campaign finance reform. I have long been convinced that such reform would not occur until there was the kind of a tidal wave of public pressure which led to such legislation after Watergate.

It is obviously an uphill battle to change the current system which protects incumbents. It did not take too much provocation on any issue for one side or the other to throw up roadblocks when the Committee would come to an intersection where bipartisan agreement was necessary.

To try to assess blame would be hopeless and pointless. It was a bipartisan, joint failure.

A key difference arose over who would be subpoenaed and how broad those subpoenas would be. In June, Senator Levin and I were deputized to work out a dispute on the subpoena controversy. We succeeded, perhaps too well, because we were never deputized again.

Some subpoenas were particularly sensitive because they might have implicated Members. Those not in the Senate have not seen and probably cannot understand the constant, frequent interchanges among Members on numerous issues which require collegiality for the institution to function. Every effort is made by Senators to modulate disagreements over specific issues with the prevailing attitude being that the next vote is more important than the last vote. I would not say that the Congress cannot investigate itself; but in this matter, we did not.

Several subpoena recipients correctly complained that their subpoenas were too broad. Instead of limiting and then enforcing the subpoenas, the partisan controversy festered and ultimately nothing was done. In my opinion, our failures to enforce those subpoenas constitutes a serious precedent weakening the Senate's institutional authority.

The Committee's work was substantially hindered by difficulties in obtaining important information from the CIA and FBI. On September 11, 1997, Attorney General Reno, FBI Director Freeh and CIA Director Tenet testified before the Committee on a sequence of events which was and is extraordinarily difficult to understand and impossible to justify. Director Tenet testified that a Committee briefing by the CIA and FBI in July 1997 was incomplete because the Committee was not told at that time about an FBI report that an individual, who had been identified in many news accounts as a major foreign contributor to political campaigns and political committees, had made significant contributions as part of a plan of the government of

China.

The FBI Director advised that the information about that individual had been in the FBI files since September or October of 1995 on one report and since January 1997 on a second report. The FBI Director advised that the Committee was not told about that information at the July 1997 briefing because the FBI did not know it had the information in its files.

The Governmental Affairs Committee was further advised at the September 11, 1997, briefing that if in the future the Department of Justice found similar information, they would “very seriously consider and talk about bringing that information to the committee.” That was palpably insufficient.

After that event, I had no confidence in the completeness of information furnished to the Committee by the FBI or CIA. During my service on the Intelligence Committee, I found similar instances where critical information was withheld by the CIA. My experience with former CIA Director John Deutch, FBI Director Freeh and CIA Director Tenet leads me to believe they did not know about such withheld information.

In reporting on the Aldrich Ames case, then CIA Inspector General Fred Hitz stated that former Directors William H. Webster, Robert M. Gates and R. James Woolsey should be held accountable on the following rationale:

We have no reason to believe that the DCIs who served during the relevant period were aware of the deficiencies described in this report. But DCIs are obligated to ensure that they are knowledgeable of significant developments related to crucial Agency missions. Sensitive human source reporting on the Soviet Union and Russia during and after the Cold War clearly was such a mission, and certain DCIs must therefore be held accountable

for serious shortcomings in that reporting.

That controversial approach has not been adopted, but it is worth considering in the light of repeated failures by heads of those departments to find out and know what is in their agencies files.

After the strong criticism by Committee Members at the Senate September 11, 1997, hearing, it was reported that the FBI then looked further to determine whether other information had not been disclosed. Shortly thereafter, on September 27, 1997, FBI Agent Ray Wickman resigned. Agent Wickman had served as a unit chief on Chinese intelligence matters.

The House Government Reform and Oversight Committee has inquired into the circumstances surrounding Wickman's termination. One explanation is that he chose to resign because he was over the 57 retirement age. Another explanation was that he chose to resign rather than accept a new assignment after being replaced as the unit chief.

House Chairman Burton questioned FBI Director Freeh in House hearings on December 10 and Director Freeh stated:

"... he (Wickman) has said that he is retired because he wanted to retire and did not retire because he felt forced. The other thing--excuse me. The idea that he was told to turn in his sources is a nonsensical notion."

Chairman Burton later asked Director Freeh:

"... have any agents or anybody at the Bureau indicated that he was dissatisfied with the Justice Department regarding their inquiry into his sources?"

Mr. FREEH "no sir."

At a later point in the hearing Director Freeh asked to "put one thing on the record" and

then testified:

Mr. FREEH: I got this note from my general counsel, who asked to ask a question with respect to Mr. Wickman. I'm told by my counsel that Mr. Wickman was concerned with the question of DOJ attorneys accessing what we call asset files. An asset file is not the substantive information, but lists the names and address of the informant, which is the most sensitive files that we have.

I'm told that once the DOJ attorneys understood that the asset files were not substantive, that was the end of that issue. But let me get some more information and report back to you.

As of this date, March 4, 1998, Director Freeh has not yet reported back.

In the total context, there may be more to this issue than just the identity of assets and this inquiry should be pursued to determine whether Agent Wickman or anybody else at the FBI or the Department of Justice had any other information on the Chinese issue which was not turned over to our Committee.

In late February 1998, as the Committee was preparing its final report, Chairman Thompson was advised by Attorney General Reno that there was new important information on the China issue which could not be disclosed. I urged that the information at least be made available to the Committee Chairman and Ranking Member so that there could be their evaluation as to whether that information or perhaps a redacted version could be available for our report. No information has been made available by the Department of Justice.

Obviously, additional investigation is necessary to develop further the facts on the issue of the government of China influencing the 1996 federal elections.

I believe campaign finance reform is urgently required. My specific recommendations are set forth in Senate Bill 1191 captioned “The Campaign Finance Reform Act of 1997.” Following my statements on the subject including arguments on the Senate Floor, I believe that Independent Counsel should be appointed to investigate the financing of the 1996 federal elections.